

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA, ex rel.,)
and FLPMC, LLC)
Plaintiff(s),)
v.)
ACE HARDWARE CORPORATION)
Defendant(s).)

Civil Action No. 2:10-cv-00229 (AJS)

STIPULATION SELECTING ADR PROCESS

Counsel report that they have met and conferred regarding Alternative Dispute Resolution (ADR) and have reached the following stipulation pursuant to L.R. 16.2 and the Court's ADR Policies and Procedures.

I. PROCESS

Select one of the following processes:

- ☒ Mediation
☒ Early Neutral Evaluation (ENE)
☐ Court sponsored Binding Arbitration
☐ Court sponsored Non-binding Arbitration
☐ Private ADR (please identify process and provider)

Other (please identify process and provider) _____

***If you are utilizing a private process, be advised that the case is still governed by the Court's ADR Policies and Procedures. It is the responsibility of counsel to ensure that all of the proper forms are timely submitted and filed, as required by Policies and Procedures.**

II. COSTS

The parties have agreed to share the ADR costs as follows (do not complete percentages for court sponsored arbitration. For that process costs are paid by the court in accordance with 28 USC §658.):

50 % by Plaintiff
50 % by Defendant

If a dispute arises as to compensation and costs for the mediator/neutral evaluator/private arbitrator, the Court will set reasonable compensation and costs.

III. NEUTRAL

¹ For binding arbitration, please complete form "Stipulation to Binding Arbitration" located on the Court's website at www.pawd.uscourts.gov

The parties hereby designate by agreement the following individual to serve as a Neutral in the above-styled action:

Name of Neutral:	<u>Magistrate Judge Kenneth Benson (Ret.)</u>
Address of Neutral:	<u>P.O. Box 101824, Pittsburgh, PA 15237</u>
Telephone & FAX Numbers:	<u>Tel: (412) 281-9112 Fax: (866) 571-6273</u>
Email address of Neutral:	<u>kbenson@nethere.com</u>

The parties represent that they have contacted the selected prospective neutral and have determined that the neutral is available to conduct the ADR session within the time prescribed by the Court's Policies and Procedures and that the neutral does not have a conflict.

IV. PARTICIPANTS

Name of the individual(s) who will be attending the mediation or early neutral evaluation session in accordance with Sections 3.8A and 4.10A of the Court's ADR Policies and Procedures:

For Plaintiff(s) <u>FLFMC, LLC</u>	<u>David G. Oberdick, Esquire</u>
	Name and title
For Defendant <u>Ace Hardware Corp.</u>	<u>John A. Bannon, Esquire</u>
	Name and title
For Defendant <u>Ace Hardware Corp.</u>	<u>Jessica K. Fender, Esquire</u>
	Name and title
For 3d party Deft <u></u>	<u>cont. next page</u>
	Name and title

If there is insufficient space to list all parties who will be attending the session, please add additional sheets as necessary.

Each party certifies that the representative(s) attending the ADR session on its behalf has full and complete settlement authority.

V. ACKNOWLEDGMENT

We, the undersigned parties to this action, declare that this stipulation is both consensual and mutual.

Dated: 4/23/10 David G. Oberdick /s/
Attorney for Plaintiff

Dated: 4/23/10 John A. Bannon /s/ ; Matthew T. Logue /s/
Attorney for Defendant

4/15/09

IV. PARTICIPANTS (cont.)

Name of the individual(s) who will be attending the mediation or early neutral evaluation session in accordance with Sections 3.8A and 4.10A of the Court's ADR Policies and Procedures:

For Plaintiff(s): Tony J. Thompson, Esquire